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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,570	12/14/2001	Merlin E. Scharfe	D/97244	5988

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RICHARD M. KLEIN
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE
SEVENTH FLOOR
CLEVELAND,, OH 44114-2579

EXAMINER

NOTE, JANIS L

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/014,570

Applicant(s)

SCHARFE ET AL.

Examiner

Janis L. Dote

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attached, paragraph 1.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Janis L. Dote
JANIS L. DOTE
PRIMARY EXAMINER
GROUP 1500-
1700

Art Unit: 1756

1. Claims 6-10, 12-18, 20, 21, and 24-26 stand rejected over the cited prior art for the reasons discussed in the final rejection mailed on Oct. 13, 2005, paragraphs 5-8.

Applicants' arguments in the response filed after the final rejection on Dec. 15, 2005, have been fully considered but they are not persuasive. Applicants assert that because the imaging member recited in the instant claims is a "positively charged" member, the blocking layer recited in the instant claims "would need p-type particles," which transport holes. Applicants assert that Yuh teaches only the use of n-type particles, which transport electrons, in its charge blocking layer, and therefore teaches away from the use of p-type particles in its charge blocking layer.

Applicants' arguments are not persuasive. Applicants' assertion that the blocking layer recited in the instant claims "would need p-type particles" is mere attorney argument, which is not supported by any objective evidence on the present record. Neither the instant claims nor the instant specification identifies the imaging member recited in the instant claims as a "positive charging" imaging member, as asserted by applicants. Instant claim 10 merely recites "an image forming member." In addition, instant

Art Unit: 1756

claim 10 recites the presence of a "hole blocking layer including a crosslinked polysiloxane polymer network impregnated with a hydroxy-functionalized polymer and photogenerating pigments" (emphasis added). Instant claim 10 does not recite the presence of an "electron blocking" layer, which applicants allege is needed for a "positive charging" imaging member. Furthermore, the instant claims do not recite that the photogenerating pigments comprise "p-type particles." Applicants cannot argue patentability based on limitations that are not present in the claims. Moreover, the instant specification does not define or identify the photogenerating pigments in the hole blocking layer recited in the instant claims as p-type particles. The instant specification, page 8, lines 23-25, discloses a "hole blocking layer" containing "a crosslinked polysiloxane polymer network impregnated with a hydroxy-functionalized polymer and photogenerating pigments." Both Yuh at col. 5, lines 4-7, and the instant specification at page 12, lines 3-6, teach that hole blocking layers are "capable of forming a barrier layer to prevent hole injection from the conductive layer to the opposite photoconductive layer" (emphasis added).

Art Unit: 1756

Furthermore, as discussed in the final rejection, paragraph 5, Yuh teaches that its charge blocking layer that comprises a plurality of the n-type particles can be used as the charge blocking layer in a photoconductive imaging member where the charge generating layer is coated on the top of the charge transport layer, as recited in instant claim 10. See Yuh, Fig. 2, and col. 2, lines 25-30. Thus, Yuh teaches an imaging member comprising the required photoconductive layer structure, i.e., a charge generating layer coated on a charge transport layer, recited in the instant claims.

Accordingly, for the reasons discussed above and in the final rejection, the prior art rejections of claims 6-10, 12-18, 20, 21, and 24-26 stand.